IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1336 of 1981

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BAI BAIJI W/D OF SHANKARBHAI DHULABHAI. - Appellant(s)
Versus
SPECIAL LAND ACQUISITION OFFICER. - Defendant(s)

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Appearance :
NOTICE UNSERVED for Appellant(s) : 1,UNSERVED-EXPIRED (N) for Appellant(s) : 1,MR PT PATEL for Appellant(s) : 1,
MR UDAY BHATT A.G.P. for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 01/12/2006

ORAL JUDGMENT

1. This appeal has been filed for seeking enhancement of the award made by the learned Extra

Assistant Judge, at Vadodara dated 4th November, 1980 in Reference Case No. 59 of 1976.

2. Originally it was filed by Mr. P.T. Patel learned advocate for the appellant. He has expired. This Court, therefore, issued notice by order dated 27th March, 2006. However, it returned with an endorsement of the bailiff that on making inquiry on 27th April, 2006 and 29th April, 2006, the appellants were not found and on further inquiry he was informed that they had left village Harni and they were staying somewhere else and their whereabouts were not known to anyone in village Harni. Bailiff's report is dated 29th April, 2006. Thereafter second notice was issued by this Court by order dated 17th July, 2006 at the same address, but it returned unserved with an endorsement that because of want of time, it could not be served. Yet another notice was issued by this Court by order dated 5th September, 2006. However, the said notice also returned unserved with an endorsement of the bailiff that on making inquiry on 27th September, 2006, it was learnt that the concerned appellant had expired and none of his heirs stayed in village Harni. Son has gone to village Ranoli, District Vadodara and he has been staying there since then. Hence, notice has been returned unserved. The report is dated

27th September, 2006.

2.1. From the aforesaid it appears that enough efforts have been made by this Court to secure presence of the appellants of this appeal or to allow them to make appropriate arrangement for engaging the advocate, but in vain. Further, cognate matter of this appeal viz. First Appeal No. 1333 of 1981 has already been disposed of on merits. Hence, no useful purpose will be served by keeping this appeal pending. Thus, this appeal requires disposal on the same line, since the facts and law involved in both the appeals are common. Hence, even in absence of the appellant this appeal is disposed of on the same terms, which are as under :-

> “The award made by the Reference Court is required to be slightly modified and the market value is required to be enhanced from Rs.33,000=00 per Hectare to Rs.45,000=00 per Hectare together with all incidental and statutory benefits including the solatium and interest. “

2.2. In case of any difficulty, liberty is reserved to the heirs of the deceased appellants to move this Court.

3. In the result, the appeal is partly allowed with no order as to costs.

4. Copy of the judgment of First Appeal No. 1333 of 1981 to be kept in this appeal.

R & P to be re-transmitted to the Reference Court forthwith.

[Akshay H. Mehta, J.]

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